

Central Alberta

Regional Assessment Review Board

Decision: **CARB 0262-709/2016**

Complaint ID 709

Roll No. 30000430785

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: July 5, 2016

PRESIDING OFFICER: H. Argento

BOARD MEMBER: A. Knight

BOARD MEMBER: Z. Ordman

BETWEEN:

2792800 CANADA LIMITED

Complainant

-and-

CITY OF RED DEER
Revenue and Assessment

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30000430785

MUNICIPAL ADDRESS: 2235 – 50 Avenue

ASSESSMENT AMOUNT: \$ 3,736,000

The complaint was heard by the Composite Assessment Review Board on the 5th day of July, 2016, in the City of Red Deer, within the province of Alberta.

Appeared on behalf of the Complainant:

James Phelan, Agent for Colliers International Realty Advisors Inc.

Appeared on behalf of the Respondent:

Anna Meckling and Jason Miller, Revenue and Assessment, The City of Red Deer

DECISION: The assessed value of the subject property is VARIED to \$3,396,000.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 456 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and City of Red Deer Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw*.

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is located in an area zoned C4, Commercial (Major Arterial) District, and is located at 2235 - 50 Avenue in the city of Red Deer, within the province of Alberta.
- [3] There is a 29,421 square foot [“sf”] building on the subject property. Because the building is near the end of its economic life, the property has been assessed on the basis of land value only. The site is rectangular with a total area of 3.39 acres.
- [4] A property assessment complaint was filed on March 21, 2016, and Notice of Hearing was sent to the parties on April 19, 2016.

PRELIMINARY MATTERS

- [5] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [6] Neither party raised any objection to the panel hearing the complaint.
- [7] The Respondent raised a preliminary issue regarding page 5 of 24 of the Complainant’s rebuttal document.
- [8] The Complainant offered to remove this page from the rebuttal submission.
- [9] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.
- [10] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A1 - Clerk Hearing Materials including Agenda, Complaint, and Notice of Hearing
 - C1 - Complainant Disclosure
 - R1 - Respondent Disclosure
 - C2 - Complainant Rebuttal (excluding page 5 of 24)

ISSUES

- [11] The Board considered the parties’ positions and determined the issues before the Board are as follows:

Is the subject property assessed in excess of market value, and is it assessed equitably with a similar property.

POSITION OF THE PARTIES

Position of the Complainant

- [12] The Complainant has no dispute with the subject property being assessed based on land value only using a sales approach, but maintains that the current assessment of \$1,102,064 per acre (or \$25.30 per square foot ["psf"]) is too high.
- [13] The Complainant provided 5 sales of serviced land that occurred between September 2013 and May 2015. Two are located in the city of Red Deer and three in Red Deer County, which indicate an average value of \$664,667 per acre (\$15.26 psf). The Complainant stated that sales 1 and 2 on the chart are of sites that are inferior to the subject and should be given little weight. Details of the sales are on page 6 of 45 within Exhibit C1.
- [14] The Complainant requests that the subject assessment be changed to \$20.92 psf (\$914,749 per acre) based on the remaining 3 sales, one in Red Deer County and two within the city of Red Deer.
- [15] The Complainant provided an equity comparable showing a 2.2 acre vacant parcel at 3210 - 50 Avenue which is used as a parking lot, and is valued at \$1,001,881 per acre. This comparable is similar in location (10 blocks from the subject) and size to the subject property. It is the position of the Complainant that this shows an inequity to the subject property (details are on page 11 of 45 within Exhibit C1).
- [16] In summary, the Complainant produced a chart of five sales, reduced to three comparable sales, which support a value of \$3,101,000 and an equity comparable, to support a value of \$3,396,000.

Position of the Respondent

- [17] The Respondent provided a chart of four sales that occurred between April 2013 and April 2014 (details on page 10 of Exhibit R1). All sites were located in the city Red Deer and were less than 1 acre in size. These sales have an average price of \$1,387,377 per acre (\$26.26 psf), which supports the assessed value.
- [18] During questioning, the Respondent agreed that sale 1 might be considered an outlier with a price psf of \$51.57 in comparison to the other 3 sales that varied from \$22.36 to 27.42 psf. There was no adjustment made for the difference in size between the comparable sales and the subject property.
- [19] The Respondent stated that MGA s 467 (3)(c) prohibits the use of sales outside a municipality from being used as comparables. This would remove sales 1, 2 and 3 from the Complainants analysis.

The two remaining sales are both located in the city of Red Deer:

- sale 4 is a non-arms-length transaction between two related parties (located at 6950 Taylor Drive). Support for this is found on pages 70-76 in exhibit R1.

- sale 5 was not a vacant land sale but an improved sale of an operating hotel (located at 7474 50 Avenue). Details for this are on page 77-78 of Exhibit R1.

The position of the Respondent on the equity comparable was that the parcel was required parking for the Sheraton Hotel and was included in the total assessment of the hotel property.

- [20] In summary, the Respondent stated that the sales they have provided support the assessed value. The Respondent further argued that the Complainant had not met the burden of proof. The onus is on the Complainant to provide convincing evidence to show that the Assessor has erred or applied inequitable factors in arriving at an assessed value, and it is the position of the Respondent that this provision has not been met. The Respondent requested that the assessment be confirmed.

REBUTTAL

- [21] It is the opinion of the Complainant that MGA 293(2) allows for consideration of sales from outside of a municipality when preparing or defending an assessment.

MGA 293(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality which the property that is being assessed is located.

The Complainant argues that although the assessor must consider similar property in the same municipality, comparables outside a municipality can be used to demonstrate market value. The Complainant asks the Board to consider the Red Deer County comparables.

- [22] The Complainant provided information regarding sale 1 in the Respondent's chart (page 10 of R1), and argued that it was a motivated sale, purchased by the neighbouring car dealership to expand their operation (details on page 6 with supporting documents on pages 13 - 24 of Exhibit C2).
- [23] The rebuttal document included the assessment summary for the Sheraton Hotel where the additional parking lot located at 3210 - 50 Avenue was assessed at \$2,023,000, which the Complainant argues is the assessed value for that parcel (details on page 7 – 9 of C2).
- [24] The Respondent questioned whether the parking lot was required for the hotel to meet its parking requirements, to which the Complainant responded that to his knowledge, there were no caveats to prevent the sale of the parcel as a separate property.

BOARD FINDINGS and DECISION

- [25] The Board considered the sales charts from both C1 and R1 and placed little weight on either.
- The Complainant provided 5 sales, 3 of the sales were in Red Deer County so were not similar in location. The remaining 2 sales included a non-arms-length transaction and a sale of an operating hotel, which could not be considered useful in producing a land value.

- The Respondent provided 4 sales, all considerably smaller than the subject and not similar in location. There were no adjustments made for the size of the subject being 3 times larger than the largest of the comparables, nor any adjustment for location.

[26] The Board was left with the equity comparable to consider. The Respondent argued that this parcel was required parking for the Sheraton Hotel and could not be sold separately. The Complainant argued that the value placed on this parcel must be market value as required by legislation.

The Board referred to legislation as follows:

MGA s 289 (2) Each assessment must reflect

(b) the valuation and other standards set out in the regulations for that property.

MRAT s 4 (1) the valuation standard for a parcel of land is

(a) market value

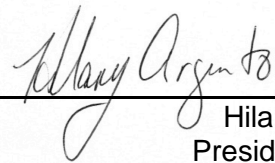
The Board finds that the assessed value of the equity comparable, which is of similar size and proximity to the subject, should be considered valid. There was no evidence to support the position of the Respondent that the use of the comparable property, as a parking lot for the adjacent hotel property, would affect the value.

[27] Based on the reasons noted above, the decision of the Board is to vary the assessment by reducing the value of the subject property to \$1,001,881 per acre, resulting in a property assessment of \$3,396,000.

DECISION SUMMARY

[28] The Board finds that the value of the property assessment is VARIED to \$3,396,000.

[29] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 27th day of July, 2016 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Hilary Argento
Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents Presented at the Hearing and considered by the Board

EXHIBIT NO.

ITEM

- A1 - Hearing Materials including Agenda, Complaint, and Notice of Hearing (10 pages)
- C1 - Complainant Disclosure (45 pages)
- R1 - Respondent Disclosure (99 pages)
- C2 - Complainant Rebuttal (24 pages, excluding page 5 of 24)